

SENATE BILL REPORT

SB 5260

As Passed Senate, February 13, 2019

Title: An act relating to powers to waive statutory obligations or limitations during a state of emergency in order to cope with the emergency.

Brief Description: Concerning powers to waive statutory obligations or limitations during a state of emergency in order to cope with the emergency.

Sponsors: Senators Zeiger, Hunt, Hobbs, Takko, Bailey and Conway.

Brief History:

Committee Activity: State Government, Tribal Relations & Elections: 2/01/19, 2/06/19 [DP, w/oRec].

Floor Activity:

Passed Senate: 2/13/19, 45-2.

Brief Summary of Bill

- Amends certain authorities granted to the Governor during a declared state of emergency.
- Limits a waiver or suspension of statutory obligations or limitations issued by the Governor to 30 days unless the Legislature extends it by concurrent resolution, or in writing if the Legislature is not in session.

SENATE COMMITTEE ON STATE GOVERNMENT, TRIBAL RELATIONS & ELECTIONS

Majority Report: Do pass.

Signed by Senators Hunt, Chair; Kuderer, Vice Chair; Zeiger, Ranking Member; Bailey, Hawkins and Takko.

Minority Report: That it be referred without recommendation.

Signed by Senator Hasegawa.

Staff: Melissa Van Gorkom (786-7491)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: State of Emergency. A state of emergency is proclaimed by the Governor after finding a public disorder, disaster, energy emergency, or riot exists within the state or any part thereof which affects life, health, property, or the public peace.

Emergency Proclamation. The Governor may proclaim a state of emergency in the area affected. The state of emergency is effective upon the Governor's signature and remains in effect until the Governor declares its termination. The Governor must terminate a state of emergency when order has been restored in the area effected.

Powers of the Governor. An emergency proclamation enables the Governor to prohibit specific activities, such as public gatherings, transfer of combustible materials, public possession of firearms, and using public streets at any time during the state of emergency. In a state of emergency, the Governor may also prohibit activities as the Governor reasonably believes is necessary to help preserve and maintain life, health, property, or the public peace.

The Governor also has authority to waive or suspend statutory obligations or limitations for certain executive functions, during and in the areas affected by an emergency proclamation, including:

- liability for participation in interlocal agreements;
- inspection fees owed to the Department of Labor and Industries;
- application of the Family Emergency Assistance Program;
- regulations, tariffs, and notice requirements under the jurisdiction of the Utilities and Transportation Commission;
- application of tax due dates and penalties relating to collection of taxes; and
- permits for industrial, business, or medical uses of alcohol.

Summary of Bill: Powers of the Governor. The powers granted to the Governor after an emergency proclamation are amended to (1) remove the authority to issue an order prohibiting the possession of firearms or any other deadly weapon in a place other than that person's place of residence or business; and (2) grant authority to waive or suspend statutory obligations or limitations for certain executive functions if strict compliance with the provision of any statute, order, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, unless:

- authority is expressly granted to another statewide elected official, or
- the waiver or exemption would conflict with federal requirements that are a prescribed condition to the allocations of federal funds to the state, or first amendment rights of freedom of speech and of the people to peaceably assemble.

The Governor must provide as much notice as practical to the Legislative leadership and impacted local governments when issuing orders to waive or suspend statutory obligations or limitations for executive functions.

A waiver or suspension of statutory obligations or limitations issued by the Governor is limited to 30 days unless the Legislature extends it by concurrent resolution, or in writing by the leadership of the Senate and the House of Representatives if the Legislature is not in session. Leadership of the Senate and the House of Representatives means the majority and minority leaders of the Senate and the House of Representatives.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: It is the mission of the Emergency Management Division to provide life safety services as quickly as possible during an emergency and sometimes laws will delay response to some incidents. Current statute does not provide the Governor with full authority to suspend state regulations to ensure a speedy emergency response. This allows the Governor to waive certain laws and regulations during an emergency and prioritize its activities or shift resources in order to deal with an emergency. The bill also provides limitations to the powers, requiring legislative approval to extend the order if it goes past 30 days.

Persons Testifying: PRO: Senator Hans Zeiger, Prime Sponsor; Robert Ezelle, Washington Military Department Emergency Management Division.

Persons Signed In To Testify But Not Testifying: PRO: Arthur West, citizen.